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7 HILDA MATOS,
8 Plaintiff,
9 v.
10 ANDREW M. SAUL,
11 Defendant.

Case No. [19-cv-02505-TSH](#)

**ORDER GRANTING MOTION FOR
ATTORNEY'S FEES**

Re: Dkt. No. 24

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13 **I. INTRODUCTION**

14 After Plaintiff Hilda Matos brought this action for review of the Commissioner of Social
15 Security's decision to deny benefits, the Court remanded the case and the Commissioner issued a
16 decision in her favor. Matos's attorney, Katherine R. Siegfried, now seeks \$10,980.88 in
17 attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b). ECF No. 24.
18 For the following reasons, the Court **GRANTS** the motion.

19 **II. BACKGROUND**

20 Matos brought this action for judicial review under the Social Security Act, 42 U.S.C. §
21 405(g). On March 23, 2020, the Court granted her summary judgment motion and remanded for
22 further proceedings. ECF No. 16. The Court subsequently granted Siegfried's motion for
23 attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, in the amount
24 of \$10,980.88. ECF No. 22.

25 On remand, the Commissioner granted Matos's application, entitling her to receive
26 \$109,899.60 in retroactive benefits. Siegfried Decl. ¶ 5 & Ex. 2 (Notice of Award), ECF No. 24-
27 1, 24-3. Under a contingent-fee agreement, Matos agreed to pay counsel up to 25% of any past-
28 due benefits award, which in this case would be \$27,474.90. *Id.* ¶ 2 & Ex. 1, ECF No. 24-2. The

1 Notice of Award further states that the Social Security Administration paid Matos's administrative
2 attorney \$6,000 and was withholding the rest of the 25 percent of past-due benefits. Thus,
3 Siegried requests a fee award of \$21,474.60.

4 III. LEGAL STANDARD

5 Attorneys handling social security proceedings may seek fees for their work under both the
6 EAJA and the Social Security Act. While the government pays an award pursuant to the EAJA,
7 an award pursuant to § 406 of the Social Security Act is paid out of a successful claimant's past-
8 due benefits. *Russell v. Sullivan*, 930 F.2d 1443, 1446 (9th Cir. 1991), *abrogated on other*
9 *grounds by Sorensen v. Mink*, 239 F.3d 1140, 1149 (9th Cir. 2001). In passing § 406, Congress
10 sought to protect attorneys from the nonpayment of fees, while also shielding clients from unfairly
11 large fees. *Gisbrecht v. Barnhart*, 535 U.S. 789, 805 (2002).

12 Under the Act, when a court renders judgment in favor of a claimant, it may award the
13 claimant's counsel a reasonable attorney's fee, not to exceed 25% of the past-due benefits. 42
14 U.S.C. § 406(b)(1)(A); *see also Gisbrecht*, 535 U.S. at 808 (holding that contingent-fee
15 agreements are not enforceable to the extent that they provide for fees exceeding 25% of the past-
16 due benefits); *Culbertson v. Berryhill*, 139 S. Ct. 517, 523 (2019) ("the 25% cap in § 406(b)(1)(A)
17 applies only to fees for court representation, and not to the aggregate fees awarded under §§
18 406(a) and (b)"). The court provides "an independent check" to assure that contingency fee
19 agreements between Social Security claimants and their attorneys will "yield reasonable results in
20 particular cases." *Gisbrecht*, 535 U.S. at 807.

21 In determining a reasonable fee award, the district court "must respect 'the primacy of
22 lawful attorney-client fee agreements,'" by "'looking first to the contingent-fee agreement, then
23 testing it for reasonableness.'" *Crawford v. Astrue*, 586 F.3d 1142, 1148 (9th Cir. 2009) (quoting
24 *Gisbrecht*, 535 U.S. at 793, 808). A fee based on a contingent-fee agreement is unreasonable and
25 subject to reduction "if the attorney provided substandard representation or engaged in dilatory
26 conduct in order to increase the accrued amount of past-due benefits, or if the 'benefits are large in
27 comparison to the amount of time counsel spent on the case.'" *Id.* (quoting *Gisbrecht*, 535 U.S. at
28 808). "The attorney bears the burden of establishing that the fee sought is reasonable." *Id.* In

1 determining whether a fee is reasonable, the court may look to the lodestar calculation “*only as an*
2 *aid* in assessing the reasonableness of the fee.” *Id.* at 1151 (quoting *Gisbrecht*, 535 U.S. at 808)
3 (emphasis in original).

4 Additionally, a § 406(b) fee award is offset by any award of EAJA fees. Thus, if the court
5 awards fees under both the EAJA and § 406(b), “the claimant’s attorney must refun[d] to the
6 claimant the amount of the smaller fee.” *Gisbrecht*, 535 U.S. at 796 (citation omitted).

7 IV. DISCUSSION

8 The Court finds counsel has met her burden to demonstrate that the requested fees are
9 reasonable. As noted above, Matos entered into a contingent fee agreement providing for a 25%
10 fee, which is consistent with the statutory cap. There is no evidence that Siegfried’s performance
11 was substandard. To the contrary, counsel’s representation resulted in Matos receiving substantial
12 past-due benefits. After the Court granted Matos’s motion and remanded for further proceedings,
13 the Commissioner issued a decision in Matos’s favor in the amount of \$109,899.60. *See Khlopoff*
14 *v. Saul*, 2020 WL 7043878, at *2 (N.D. Cal. Dec. 1, 2020) (awarding attorney’s fees under §
15 406(b) where plaintiff received \$73,209.00 in benefits upon remand); *Card v. Comm’r of Soc.*
16 *Sec.*, 2019 WL 3554410, at *2 (N.D. Cal. Aug. 5, 2019) (awarding attorney’s fees where plaintiff
17 received \$57,722.52 in benefits upon remand). Further, the requested fees are not excessively
18 large in relation to the benefits achieved. Although counsel is under no obligation to do so,
19 Siegfried requests less than the full 25% contemplated by the fee agreement to account for the fees
20 the Social Security Administration withheld to pay Matos’s administrative lawyer. Thus, although
21 she is entitled to \$27,474.90 under the agreement, Siegfried seeks only \$21,474.90 for 53.5 hours
22 of work. Siegfried Decl. ¶¶ 8-9. The fees she seeks would result in an effective hourly rate of
23 approximately \$401 per hour. The Court finds this rate reasonable considering the results
24 Siegfried achieved, the amount of time she spent on the case, and her assumption of risk in
25 agreeing to represent Matos on a contingency basis. *See Crawford*, 586 F.3d at 1153 (affirming
26 the reasonableness of the fees where the effective hourly rates were \$519, \$875 and \$902); *Hearn*
27 *v. Barnhart*, 262 F. Supp. 2d 1033, 1037 (N.D. Cal. 2003) (awarding hourly rate of \$450.00 and
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1 citing cases with much higher effective rates approved). The Court therefore finds the requested
2 fees are reasonable taking into account all these factors.

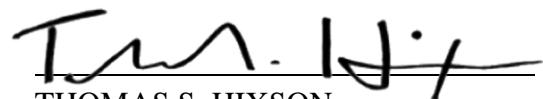
3 Once the Court determines that the fee sought under § 406(b) is reasonable, it must
4 account for the attorney's fees paid by the Commissioner under the EAJA. *Gisbrecht*, 535 U.S. at
5 796. "Congress harmonized fees payable by the Government under EAJA with fees payable under
6 § 406(b) out of the claimant's past-due Social Security benefits" by requiring the claimant's
7 attorney to refund to the claimant the amount of the smaller fee up to the point where the claimant
8 receives 100% of the past-due benefits. *Gisbrecht*, 535 U.S. at 796. Here, the Court finds
9 counsel's § 406(b) request reasonable, and therefore counsel shall refund to Matos the \$10,980.88
10 in EAJA fees previously awarded. *See Khlopoff*, 2020 WL 7043878, at *2 (finding § 406(b)
11 request reasonable and directing counsel to refund to client fees previously awarded under the
12 EAJA).

13 V. CONCLUSION

14 For the reasons stated above, the Court **GRANTS** counsel's motion for attorney's fees.
15 The Commissioner is directed to certify fees under 42 U.S.C. § 406(b) in the amount of
16 \$21,474.90, payable to Katherine Siegfried. Counsel is **ORDERED** to refund the \$10,980.88
17 EAJA fee award to Matos.

18 **IT IS SO ORDERED.**

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20 Dated: April 14, 2021

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THOMAS S. HIXSON
United States Magistrate Judge